

**LEGISLATION AFFECTING THE FEDERAL  
RULES OF PRACTICE AND PROCEDURE<sup>1</sup>  
110<sup>th</sup> Congress**

**SENATE BILLS**

- S.186 - *Attorney-Client Privilege Protection Act of 2007*
  - Introduced by: Specter
  - Date Introduced: 1/4/07
  - Status: Read twice and referred to the Senate Committee on the Judiciary (1/4/07).
  - Related Bills: None
  - Key Provisions:
    - Section 3 amends **18 U.S.C. Chapter 201** by adding a new § 3014 that prohibits a federal agent or attorney in a federal investigation, civil enforcement matter, or criminal proceeding from demanding from an organization attorney-client privilege or work product protection materials. Section 3 also prohibits the government from basing its decision to file a charging document in a civil or criminal case on whether: (1) the attorney-client privilege or work product protection is asserted; (2) the organization provides counsel or pay attorney's fees for counsel appointed to represent an employee of the organization; (3) the organization enters into a joint defense, information sharing, or common-interest agreement with an employee in an investigation or enforcement matter; (4) the sharing of information with an employee in relation to an investigation or enforcement matter involving that employee; and (5) the organization fails to terminate an employee because that employee invoked his or her fifth amendment right against self incrimination or other legal right in response to a government request. Section 3 also states that it does not prohibit an organization from voluntarily offering to share "internal investigation materials of such organization."
  
- S. 344 - *To Permit the Televising of Supreme Court Proceedings*
  - Introduced by: Specter
  - Date Introduced: 1/22/07
  - Status: Read twice and referred to the Senate Committee on the Judiciary (1/22/07).
  - Related Bills: S. 352
  - Key Provisions:
    - Section 1 amends Chapter 45, Title 28, U.S.C., requiring the Supreme Court to

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<sup>1</sup>The Congress has authorized the federal judiciary to prescribe the rules of practice, procedure, and evidence for the federal courts, subject to the ultimate legislative right of the Congress to reject, modify, or defer any of the rules. The authority and procedures for promulgating rules are set forth in the Rules Enabling Act. 28 U.S.C. §§ 2071-2077.

permit television coverage of all open sessions of the Court unless the Court decides, by a majority vote of all justices, that allowing such coverage in a particular case would violate the due process rights of one or more of the parties.

- *S. 352 - Sunshine in the Courtroom Act of 2007*

- Introduced by: Grassley
- Date Introduced: 1/22/07
- Status: Read twice and referred to the Senate Committee on the Judiciary (1/22/07).
- Related Bills: S. 344
- Key Provisions:
  - Section 2 authorizes the presiding judge of an appellate court to permit the photographing, electronic recording, broadcasting, or televising of any public proceeding over which the judge presides. The presiding judge, however, may not permit the above: (1) in a proceeding involving only the presiding judge if that judge determines that the action would violate the due process rights of any party, or (2) in a proceeding involving more than one judge, a majority of judges determines that the action would violate the due process rights of any party.

Section 2 also authorizes the presiding judge of a district court to permit the photographing, electronic recording, broadcasting, or televising of any public proceeding over which the judge presides. Upon request of any witness in a trial proceeding, the court must order that the face and voice of the witness be disguised. The presiding judge in a trial must inform each witness who is not a party that he or she has the right to request that his or her image or voice may be disguised. The presiding judge must not permit the televising of any juror in a trial.

The Judicial Conference may issue advisory guidelines on the broadcast of court proceedings.

Section 2 contains a sunset provision that terminates the authority of a district court judge to allow the broadcast of district court proceedings three years after enactment of the Act.

## **HOUSE BILLS**

- *H.R. 880 - Gang Deterrence and Community Protection Act of 2007*

- Introduced by: Forbes
- Date Introduced: 2/7/07
- Status: Referred to the House Committee on the Judiciary (2/7/07).
- Related Bills: None
- Key Provisions:
  - Section 113 amends **Evidence Rule 804(b)(6)** by codifying the ruling in

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*United States v. Cherry*, 217 F.3d 811 (10<sup>th</sup> Cir. 2000), which permits admission of statements of a murdered witness to be introduced against the defendant who caused the unavailability of the witness and members of the conspiracy if such actions were foreseeable by conspirators.

### **SENATE RESOLUTIONS**

- S.J. Res.

### **HOUSE RESOLUTIONS**

- H.J. Res.